

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C. 20436**

In the Matter of

**CERTAIN AUDIO DIGITAL-TO-  
ANALOG CONVERTERS AND  
PRODUCTS CONTAINING SAME**

**Inv. No. 337-TA-499**

**TERMINATION OF THE INVESTIGATION;  
ISSUANCE OF LIMITED EXCLUSION ORDER**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has terminated the above-captioned investigation and has issued a limited exclusion order.

**FOR FURTHER INFORMATION CONTACT:** Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3152. Copies of the public version of the ID and all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on November 14, 2003, based on a complaint filed on behalf of Cirrus Logic, Inc. of Austin, TX ("Cirrus"). 68 *Fed. Reg.* 64641 (Nov. 14, 2003). The complaint, as supplemented, alleged violations of section 337 in the importation into the United States, sale for importation, and sale within the United States after importation of certain audio digital-to-analog converters and products containing same by reason of infringement of claims 1 and 11 of U.S. Patent No. 6,492,928 ("the '928 patent"). The notice of investigation named Wolfson Microelectronics,

PLC of Edinburgh, United Kingdom; and Wolfson Microelectronics, Inc. of San Diego, CA (collectively "Wolfson") as respondents.

On December 29, 2003, the ALJ issued an ID (Order No. 5) granting complainant's motion to amend the complaint and notice of investigation to add allegations of infringement of claims 2, 3, 5, 6, and 15 of the '928 patent, and of claims 9, 12, and 19 of U.S. Patent No. 6,011,501 ("the '501 patent"). 69 *Fed. Reg.* 4177 (Jan. 28, 2004). On July 1, 2004, the ALJ issued an ID (Order No. 16) granting complainant's motion to terminate the investigation as to claims 1 and 2 of the '928 patent. On July 27, 2004, the ALJ issued an ID (Order No. 24) granting complainant's motion to terminate the investigation in part as to claim 11 of the '928 patent. Orders Nos. 5, 16, and 24 were not reviewed by the Commission.

The ALJ held an evidentiary hearing in the investigation from August 3, 2004, to August 11, 2004, and on November 15, 2004, he issued his final ID finding a violation of section 337 based on his findings that the asserted claims of the '501 patent are infringed, that they are not invalid in view of any prior art, and that claims 9 and 12 of the '501 patent are not invalid because of failure to provide an enabling written description of the claimed invention. The ALJ found the '928 patent to be unenforceable because the inventors intentionally withheld highly material prior art from the examiner during the prosecution of the '928 patent application at the United States Patent and Trademark Office ("USPTO"). As an independent ground for unenforceability, the ALJ found that the '928 patent is unenforceable because one person was mistakenly listed on the patent as an inventor. The ALJ found that the accused devices infringe the asserted claims of the '928 patent, if enforceable, that the asserted claims of the '928 patent are not invalid in view of any prior art, or because of a failure to provide an enabling written description of the claimed invention, or for failure to disclose the best mode.


On November 23, 2004, the USPTO issued a certificate correcting the inventorship of the '928 patent thereby curing one ground for unenforceability of that patent. See *Viskase Corp. v. American National Can Co.*, 261 F.3d 1316, 1329 (Fed. Cir. 2001) ("Absent fraud or deceptive intent, the correction of inventorship does not affect the validity or enforceability of the patent for the period before the correction."). On November 30, 2004, Cirrus, Wolfson and the Commission's investigative attorney filed petitions for review of the final ID, and on December 7, 2004, all parties filed responses. On December 30, 2004, the Commission determined to review and reverse the ID's finding that the '928 patent is unenforceable due to incorrect inventorship in view of the recently issued certificate of correction by the USPTO. 70 *Fed. Reg.* 1275 (Jan. 6, 2005). It further determined not to review the remainder of the ID, thereby finding a violation of section 337. *Id.* The Commission invited the parties to file written submissions on remedy, the public interest and bonding, and provided a schedule for filing such submissions. *Id.*

Having reviewed the record in this investigation, including the parties' written submissions and responses thereto, the Commission determined that the appropriate form of relief is a limited exclusion order prohibiting the importation of Wolfson's accused audio digital-to-analog converters that infringe claims 9, 12 and 19 of the '501 patent. The limited

exclusion order applies to any of the affiliated companies, parents, subsidiaries, licensees, contractors, or other related business entities, or their successors or assigns, of Wolfson. The Commission further determined that the statutory public interest factors enumerated in section 337(d)(1), 19 U.S.C. § 1337(d)(1), do not preclude issuance of the limited exclusion order. Finally, the Commission determined that the bond under the limited exclusion order during the Presidential review period shall be in the amount of 5 percent of the entered value of the imported articles. The Commission's order and opinion in support thereof were delivered to the President on the day of their issuance.

The authority for the Commission's determinations is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.50).

By order of the Commission.

  
Marilyn R. Abbott  
Secretary to the Commission

Issued: February 11, 2005

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.**

**In the Matter of**

**CERTAIN AUDIO DIGITAL-TO-  
ANALOG CONVERTERS AND  
PRODUCTS CONTAINING SAME**

**Inv. No. 337-TA-499**

**LIMITED EXCLUSION ORDER**

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation and sale by Respondents Wolfson Microelectronics, PLC and Wolfson Microelectronics, Inc. (together, "Wolfson") of audio digital-to-analog converters by reason of infringement of claims 9, 12, or 19 of U.S. Patent No. 6,011,501. Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of infringing audio digital-to-analog converters manufactured by or for Wolfson.

The Commission has determined that the public interest factors enumerated in 19 U.S.C. §§ 1337 (d) do not preclude issuance of the limited

exclusion order. Finally, the Commission has determined that the bond during the Presidential review period shall be in the amount of 5 percent of the entered value of any covered audio digital-to-analog converters.

Accordingly, the Commission hereby **ORDERS THAT:**

1. Audio digital-to-analog converters covered by claims 9, 12, and 19 of U.S. Patent No. 6,011,501 that are manufactured abroad or imported by or on behalf of Wolfson, or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, except under license of the patent owner, or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid audio digital-to-analog converters are entitled to entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 5 percent of the entered value of such articles, from the day after this Order is received by the President until such time as the President notifies the Commission that he approves or disapproves this action but, in any event, not later than sixty (60) days after the date of receipt of this Order by the President, pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(j).

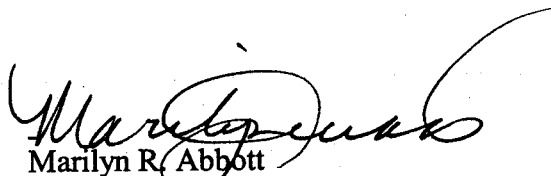
3. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to audio digital-to-analog converters that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

4. The Commission may modify this Order in accordance with the procedures described in Rule 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

6. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and Customs and Border Protection.

7. Notice of this Order shall be published in the *Federal Register*.

By Order of the Commission.

  
Marilyn R. Abbott  
Secretary to the Commission

Issued: February 11, 2005